IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7413 OF 2006

Smarth Sahakari Bank Ltd. ...Petitioner

Versus

Gangar Kishor Gangji ...Respondent

Shri A.S.Kulkarni for the Petitioner.
Shri R.S.Ghadge for Shri A.S.Desai for the first Respondent.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 26, 2007.

P.C.:

1. By consent of the parties Writ Petition is taken up for final hearing.

2. The learned Advocate appearing for the first Respondent on instructions of the first Respondent states that he has no objection if order dated 18th October, 2006 passed by the Maharashtra State Appellate Court, Mumbai Bench is quashed and set aside and the order dated 05th September, 2006 passed by the learned Judge of the Co-operative Court, Solapur below Application at Exhibit 5 in dispute No.290 of 2004 is restored. He submits that time fixed under order dated 05th September, 2006 may be extended. The learned Advocate for the Petitioner has no objection for following the said course.

3. Hence, I pass the following order:

(i) The impugned order dated 18th October, 2006 passed in Appeal From Order No.231 of 2006 is quashed and set aside and the said Appeal stands dismissed.

(ii) Order dated 05th September, 2006 passed by the Co-operative Court is restored.

(iii) If the first Respondent deposits a sum of Rs.4,50,000/- (Rupees Four Lac Fifty Thousand) with the Petitioner Bank on or before 06th June, 2007, the Petitioner Bank will handover the goods to the first Respondent. If the first Respondent fails to pay the amount within stipulated time, the Petitioner Bank will be entitled to proceed against the goods as stated in order dated 05th September, 2006.

(iv) Payment of the aforesaid amount by the first Respondent will be without prejudice to rights and contentions of both the parties and subject to the final outcome of the pending dispute.

(v) Writ Petition is disposed of in above terms with no orders as to costs.

JUDGE